

No. 14-1204

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

MILLIONWAY INTERNATIONAL, INC.

Plaintiff-Appellant,

v.

BLACK RAPID, INC.

Defendant-Appellee.

**APPEAL FROM UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS IN CV-H-13-1780
JUDGE GRAY H. MILLER**

**MOTION FOR LEAVE TO FILE TWICE CORRECTED BRIEF (WITH A
SUPPLEMENT) AND EXTEND THE DEADLINE FOR FILING**

**BY PLAINTIFF-APPELLANT
MILLIONWAY INTERNATIONAL, INC.**

DAVID FINK
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7519 Apache Plume
Houston, TX 77071
(713) 729-4991

Attorney for Plaintiff-Appellant

Date: May 5, 2014

CERTIFICATE OF INTEREST

Counsel for the Plaintiff-Appellant Millionway International, Inc. certifies the following:

1. The full name of every party represented by me is:
 - a. Millionway International, Inc.
2. The name of the real party of interest (if the party named in the caption is not the real party of interest: is:

Not Applicable
3. All parent companies in any publicly held companies that own 10 percent or more of the stock of the parties represented by me are:

Not Applicable
4. The names of all law firms and the partners and associates who appeared for the parties now represented by me in the trial court or are expected to appear in this case are:

David Fink

Date: May 5, 2014

/s/ David Fink
DAVID FINK
For Plaintiff-Appellant
Millionway International, Inc.

A Motion requesting leave to file a twice corrected initial Brief was filed on April 7, 2014 and at the same time the twice corrected Brief (with a supplement) was submitted. The supplement was the required section of facts as pointed out by the Court as being required.

At that time, I, the undersigned attorney, was traveling to join my children and grandchildren to prepare for the observance of the Jewish Holiday of Passover. At the time the Brief was filed, I believed that the twice corrected initial Brief (with a supplement) complied with the Rules of this Court so I thought that the matter of the filing was completed and I was free to concentrate on enjoying my family. See Ex. A.

The Court, however, responded to my submission of the twice corrected Brief (with a supplement) with an email message informing me that I had selected the wrong category for the filing. I was unaware of this email message until I received a telephone call from the Court on April 25, 2014 pointing out the email message from the Court and informing me that I needed to file a Motion to extend the deadline and to request acceptance of the twice corrected Brief (with a supplement).

I respectfully request the Court to extend the deadline for filing the twice corrected initial Brief (with a supplement), and to accept the Brief because the

errors in the delay were inadvertent. No disrespect of the Court was intended. Specifically, the error in designating the specific category was inadvertent due to unfamiliarity of the choices available, and the error of not seeing the email from the Court was due to an unusual distraction of family relations and a significant Jewish Holiday.

The Appellant, Black Rapid, Inc. has kindly informed me that it will not oppose this Motion.

CONCLUSION

The Court is respectfully requested to extend the deadline for filing the twice corrected initial Brief (with a supplement) until today, and to accept the twice corrected initial Brief (with a supplement).

Executed: April 29, 2014

/s/ David Fink
David Fink

EX. A

**DECLARATION OF DAVID FINK IN SUPPORT OF THE MOTION
TO EXTEND THE TIME TO FILE A TWICE CORRECTED INITIAL
BRIEF WITH A SUPPLEMENT, AND TO HAVE THE BRIEF ACCEPTED**

I, David Fink, declare as follows:

1. I am the attorney for the Appellant, Millionway International, Inc.
2. I am a sole practitioner of the law firm Fink & Johnson.
3. I make this Declaration in support of the Motion to extend the time to file the twice corrected initial Brief with a supplement, and to have the Brief Accepted.
4. On April 7, 2014, I filed a twice corrected initial Brief with a supplement of a section of facts and a change in the Table of Contents along with a Motion for the Brief to be accepted.
5. It was my belief on April 7, 2014 that the documents I filed were in compliance with the Rules of the Court.
6. Thereafter, I turned my entire attention to joining my family in Silver Spring, MD and enjoying myself with my children and grandchildren before and during the Jewish Holiday of Passover.
7. I do not return to my office until April 24, 2014.
8. On April 25, 2014, a kind Clerk of the Court telephoned me and informed me that I had selected the wrong category for the filing, and

that I needed to file a Motion requesting the time to file be extended,
and for the acceptance of the Brief.

9. I reviewed the Relevant rules of the Court, and thereafter contacted
the attorney for Black Rapid, Inc. to explain the problem to ask if my
Motion would be opposed.
10. The attorney for Black Rapid, Inc. kindly informed me today that
there would be no opposition.

I declare under penalty of perjury under the laws of the United States of
America that the foregoing is true and correct.

Date: April 29, 2014

By /s/ David Fink
David Fink

CERTIFICATE OF SERVICE

I certify that the foregoing document was served on registered counsel of record for all parties via the Court's CM/ECF system.

Dated: May 5, 2014

/s/ David Fink
David Fink